

**Stephan v Stahl & Stahl, LLC**

2025 NY Slip Op 34631(U)

December 1, 2025

Supreme Court, New York County

Docket Number: Index No. 152627/2023

Judge: Leslie A. Stroth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. LESLIE A. STROTH PART 12M**

*Justice*

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MICHAEL STEPHAN,

Plaintiff,

- v -

STAHL AND STAHL, LLC, T-MOBILE US, INC D/B/A T-MOBILE STORE BROADWAY & 77TH, T-MOBILE NORTHEAST, LLC,

Defendant.

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INDEX NO. 152627/2023

MOTION DATE 09/03/2025

MOTION SEQ. NO. 001

**AMENDED DECISION + ORDER  
ON MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 were read on this motion to/for DISCOVERY.

**FACTUAL AND PROCEDURAL BACKGROUND**

This personal-injury action arises from an alleged tripping incident that occurred on November 20, 2020, at the T-Mobile retail store located at 2181 Broadway, at or near the intersection of Broadway and West 77th Street in Manhattan. Plaintiff, Michael Stephan, alleges he entered the store as an invitee and, upon stepping inside the entrance, encountered a raised, uneven, and trap-like ramp/incline located on the interior floor immediately adjacent to the entrance. Plaintiff claims that this ramp constituted a dangerous condition and caused him to trip as he entered the premises.

Plaintiff alleges that defendants Stahl and Stahl, LLC, as owner of the premises, and T-Mobile US, Inc. and/or T-Mobile Northeast, LLC, as operator and lessee of the store, were responsible for owning, operating, managing, maintaining, controlling, supervising, repairing, and inspecting the area inside the entrance, including the ramp. The complaint asserts that defendants failed to keep the entrance safe and free from broken, raised, sunken, uneven, hazardous, and trap-like conditions, which allegedly caused plaintiff's injuries.

Plaintiff further claims defendants had actual and constructive notice of this condition and had sufficient time to remedy it but failed to do so. He alleges that the incident occurred solely due to defendants' negligence and that he sustained serious and permanent injuries, pain, emotional distress, and loss of earning capacity as a result.

Following joinder of issue, the parties engaged in discovery. T-Mobile produced:

- CCTV video capturing the entrance area and depicting plaintiff stumbling upon entering the store on November 20, 2020;
- Photographs and store records showing the store configuration as it existed at the time of the incident;
- Written responses to plaintiff's interrogatories and document demands;
- Deposition testimony of T-Mobile's corporate representative, Frederick O'Reilly, the store manager during the incident; and
- Documents received from co-defendant Stahl & Stahl, LLC, including architectural retrofit plans from 2017 regarding prior renovations.

Mr. O'Reilly testified at his deposition under oath that he began working at the store shortly before the alleged incident and had no first-hand knowledge of renovations allegedly performed several years earlier. He also testified that, to his knowledge, no customer or employee had ever tripped or been injured on the ramp before plaintiff's incident, and plaintiff himself admitted he had never previously visited this T-Mobile store.

T-Mobile asserts that the CCTV video, together with the architectural plans and the deposition testimony, accurately depict the store as it existed on the date of the incident, and show that the store's physical configuration at the time was fully disclosed in prior discovery.

Plaintiff filed the instant motion to compel, seeking full responses to the February 19, 2025 Discovery and Inspection demands and production of an additional T-Mobile corporate representative "with knowledge" of the alleged renovations or records tied to a supposed 2016–2017 "retrofit."

In opposition, T-Mobile contends that discovery was properly and fully provided, that the CCTV footage and testimony already establish the condition of the premises as of the accident date, and that any further discovery concerning years-old renovations constitutes a speculative “fishing expedition”—remote in time and unconnected to plaintiff’s alleged trip.

### LEGAL STANDARD

Pursuant to CPLR § 3101(a), parties are entitled to full disclosure of all matters that are “material and necessary” to the prosecution or defense of an action. However, discovery is not without limits. CPLR § 3103(a) authorizes the Court to issue a protective order to prevent unreasonable annoyance, prejudice, or undue burden.

Discovery must be “appropriately tailored and reasonably calculated to yield relevant information. Indeed, as the name suggests, the purpose of discovery is to determine if material relevant to a claim or defense exists. In many if not most instances, a party seeking disclosure will not be able to demonstrate that items it has not yet obtained contain material evidence.” (*Forman v Henkin*, 30 NY3d 656, 664 [2018]). Absent support that the discovery sought is material to a claim or defense, courts should not order the sought discovery as “[they]are presented with nothing other than ‘hypothetical speculations calculated to justify a fishing expedition.” (*Budano v Gurdon*, 97 AD3d 497, 499 [1st Dept 2012]).

### DISCUSSION

Plaintiff has not met his burden to demonstrate that the additional discovery sought is material and necessary. Specifically, Plaintiff fails to demonstrate that the documents and testimony concerning alleged renovations from 2016–2017 are material and necessary to the prosecution of this action within the meaning of CPLR § 3101(a). The core issue in this case is whether a hazardous condition existed on November 20, 2020, when plaintiff entered the store and encountered the interior ramp. The record already contains contemporaneous evidence depicting the premises as it existed on that date, including CCTV footage of the incident itself, photographs, architectural plans, and several hours of sworn deposition testimony from T-Mobile’s corporate representative. Plaintiff has not identified any gap in the evidence concerning the condition of the ramp at the relevant time.

Plaintiff's request is temporally remote and speculative. Here, plaintiff seeks information regarding how the store may have looked years before he ever visited the premises. No deposition testimony, pleadings, or documentary material suggests that plaintiff had prior familiarity with the store or any knowledge of its historic configuration. Nor has plaintiff demonstrated any substantial similarity between any alleged 2016–2017 retrofit and the store's appearance in 2020. *See Diaz v City of New York*, 117 AD3d 777, 778 [2d Dept 2014]. (rejecting discovery into prior conditions absent evidence that they were substantially similar or related to the incident).

Moreover, T-Mobile's corporate witness, Mr. O'Reilly, testified under oath that (i) he began working at the store only shortly before the alleged incident; (ii) he has no firsthand knowledge of prior renovations; and (iii) to his knowledge, no customer or employee had ever tripped or fallen on the ramp prior to plaintiff's incident. The CCTV footage likewise depicts plaintiff briefly stumbling but regaining his balance without falling, further confirming the absence of any observable defect related to prior construction. Plaintiff has made no showing that testimony from an additional unnamed witness would yield non-cumulative information.

The record further confirms that defendants have complied with their discovery obligations. T-Mobile produced written responses, responsive documents, surveillance footage, and a corporate representative for deposition. In addition, co-defendant Stahl & Stahl LLC already produced architectural plans relating to the 2017 retrofit, which plaintiff now seeks to re-investigate. Having obtained documentary evidence of that work and acknowledging that those plans do not reflect the store as of the date of the incident, plaintiff cannot maintain that further inquiry into older architectural records is necessary or proportional to the needs of the case. Where contemporaneous evidence exists and prior conditions are remote in time and unconnected to plaintiff's allegations, further discovery is properly denied, as such would be cumulative and lack further probative value.

In sum, plaintiff has not identified any specific, material gap in the existing record that would justify further intrusive and cumulative discovery. The condition of the subject store as of November 20, 2020 has already been captured through the most probative forms of evidence available:

contemporaneous video, photographic documentation, and sworn testimony. Under these circumstances, the additional discovery sought is remote, speculative, and disproportionate, and plaintiff's request therefore must be denied pursuant to both CPLR § 3101(a) and § 3103(a). The court has considered the remaining arguments of the parties and finds such unavailing.

Accordingly, it is hereby

ORDERED that Plaintiff's Motion to Compel (Motion Seq. 01) is denied in its entirety; and it is further

ORDERED that, to the extent any additional discovery requests concern alleged renovations or conditions prior to the date of the incident that are not directly probative of the condition as it existed on November 20, 2020, such requests are deemed overbroad and disproportionate and are precluded pursuant to CPLR § 3103(a).

The foregoing constitutes the decision and order of the Court.

12/1/2025  
DATE

  
LESLIE A. STROTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE